



HW

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/626,918
Filing Date	July 24, 2003
First Named Inventor	David P. Schneider
Art Unit	3617
Examiner Name	Sherman D. Basinger
Attorney Docket Number	H-560-CIP

ENCLOSURES (Check all that apply)

- | | | |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/
Incomplete Application
<input type="checkbox"/> Reply to Missing Parts
under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input checked="" type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a
Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation
Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Appeal Communication to Board
of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please identify
below):
Exhibits A, B, C, D Page 1, and D Page 2
Return Postcard |
|--|---|---|

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Mark Levy & Associates, PLLC		
Signature			
Printed name	Edward Vytlačil		
Date	July 11, 2005	Reg. No.	53,729

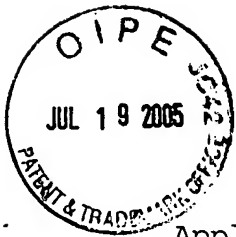
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Edward Vytlačil	Date	July 11, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/626,918 Conf. No.: 2407
Applicant : David P. Schneider
Filed : July 24, 2003
TC/A.U. : 3617
Examiner : Sherman D. Basinger
Docket No. : H-560-CIP
Title : SHARK DETERRENT DEVICE
Customer No. : 41245

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
IN ACCORDANCE WITH 37 C.F.R. §1.181(a)

Mail Stop: Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

S I R:

This petition to withdraw the holding of abandonment of the above identified patent application is responsive to the NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE), mailed on June 16th, 2005.

The NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE) stated the application was abandoned on May 16, 2005, and also stated that the Applicant's RCE and response to office action was filed on May 18, 2005 (two days after the deadline). However, Applicant's RCE and response to the latest office action was in fact filed on May 16, 2005. Enclosed are copies of the Amendment Transmittal Form (Exhibit A), the return receipt postcard (Exhibit B), and the certificate of mailing (Exhibit C). The office communication of June 16, 2005, and the Notice of Improper Request for Continued Examination (RCE), all marked Exhibit D, has been returned, as requested.

Neither of the dates: May 16, 2005 or May 18, 2005, was confirmed by the United States Patent and Trademark Office by return of the post card receipt (Exhibit B). The return receipt post card was not returned to Applicant's representative by the USPTO.

Application No. 09/975,228
Petition Dated July 11, 2005
Reply to Office Communication Dated June 16, 2005

In accordance with the MPEP 711.03(c) "Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed," this statement attests to the fact that the RCE was filed on May 16, 2005, on a personal knowledge basis, as the person who signed the certificate of mailing for the document in question.


The enclosed copies of the aforementioned documents show that the RCE had been diligently mailed in a timely manner. The payment for the RCE, check #19097 for \$620, has been accepted and was cleared May 23, 2005.

In view of this showing, Applicant respectfully requests that the Notice of Abandonment be withdrawn, and the continued examination of the amendments be permitted to continue.


I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

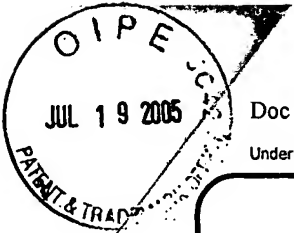
Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On July 11, 2005
(Date of Deposit)


Edward Vytlačil, Reg. No. 53729
Agent (Date)

Respectfully submitted,
MARK LEVY & ASSOCIATES, PLLC


Edward Vytlačil
Registration No. 53,729
Agent for Applicant
Press Building - Suite 902
19 Chenango Street
Binghamton, New York 13901
Phone: (607) 722-6600



Doc **Exhibit A**

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/626,918	
	Filing Date	07/24/2003	
	First Named Inventor	David P. Schneider	
	Art Unit	3617	
	Examiner Name	Sherman D. Basinger	
Total Number of Pages in This Submission		Attorney Docket Number	H-560CIP

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Check No. 19097 RCE Transmittal
Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Mark Levy & Associates, PLLC	
Signature		
Printed name	Mark Levy	
Date	5/16/05	Reg. No. 29,188

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the			
Signature			
Typed or printed name	Mark Levy	Date	5/16/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Exhibit C

Exhibit B

Please Acknowledge and Return

Date Mailed: 5/16/05

- | | |
|--|---|
| <input type="checkbox"/> Application (TM/SM/Utility Patent/Provisional Patent/Design Patent) (_____ pages) | <input type="checkbox"/> Fee Transmittal |
| <input checked="" type="checkbox"/> Transmittal Form | <input type="checkbox"/> Drawing Sheets |
| <input type="checkbox"/> Declaration | <input checked="" type="checkbox"/> Amendment/Response (<u>12</u> pages) |
| <input type="checkbox"/> Power of Attorney | <input type="checkbox"/> Specimen(s) |
| <input type="checkbox"/> Issue Fee Transmittal | <input type="checkbox"/> Assignment |
| <input type="checkbox"/> Maintenance Fee Transmittal | <input type="checkbox"/> Information Disclosure Statement |
| <input checked="" type="checkbox"/> Check No. <u>19097</u> | <input checked="" type="checkbox"/> Request for Extension of Time |
| <input type="checkbox"/> Non Publication Request | |
| <input checked="" type="checkbox"/> Other <u>REQUEST FOR RCE</u> | |

Title: SHARK DETERRENT DEVICE

Applicant: David P. Schneider
Docket No.: H-560 CIP Serial No.: 10/626, 918
Patent No.: _____

Exhibit 0 p1



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,918	07/24/2003	David P. Schneider	H-560-CIP	2407

41245 7590 06/16/2005

MARK LEVY & ASSOCIATES, PLLC
PRESS BUILDING, SUITE 902
19 CHENANGO STREET
BINGHAMTON, NY 13901

EXAMINER

BASINGER, SHERMAN D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

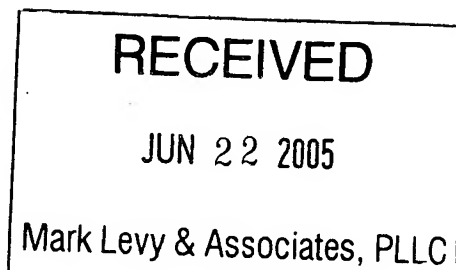


Exhibit D p 2



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 5/18/05 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☒ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on 5/16/05. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions concerning this notice to:

Vivian R. Smith, Technology Center 3600

521
(703) 272-6620